

## ORDER FOR ADJOURNMENT

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order following the remarks of Senator ISAKSON of Georgia.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Georgia.

## CONGRATULATIONS TO KEITH HATCHER

Mr. ISAKSON. Mr. President, I rise on a point of personal privilege to commend a gentleman from Georgia, Mr. Keith Hatcher.

Twenty-five years ago, when I worked with my father—my father, among other things, was the past president of the Georgia Association of REALTORS. I remember one afternoon he came into my office and said: Son, we just hired someone today who is going to be special. His name is Keith Hatcher. I want you to be sure and look him up the first time you get a chance.

Well, about a week later I met Keith. I was then a member of the Georgia Legislature, and I showed him around a little bit. He became the assistant to John Cox, who had been the venerable representative of the REALTORS for years in that State. I saw that spark in Keith Hatcher's eye, and I knew he was going to be a great one, and a great one he has been.

In his 25 years representing the Georgia association and landowners and homeowners around our State, he has fought hard for limitations and curbs on the power of eminent domain, fought hard for lower ad valorem taxes and transfer taxes, and fought hard for reform of landlord-tenant laws. He has worked day in and day out for the landowners of our State and for the REALTORS of our State, and he has done it in the most professional, comprehensive way anybody could possibly do it.

He has another great story to tell. Keith faced a significant health hazard just a few years ago. He was about to lose a kidney, and he could have lost his life, but he went through a transplant program in Birmingham, AL. The transplant was successful, and he rehabilitated himself. Today, he works as hard as he did before the injury. Importantly, as well, he works as a member of the board of the National Kidney Foundation helping to raise money to support the transplant program so others who are afflicted as he was will have the same cure he has had.

So this week, as the REALTORS from Georgia come to town, as I think they will from every other State of the Union, to talk to the Members of the Senate about laws that affect their industry and their profession, the one from Georgia will be led by Keith Hatcher. As he has for the last 24 years, he will be a voice for home ownership, a voice for lower taxation, and a voice for wide distribution and ownership of

land, which makes the United States of America the most unique country of any on the face of this Earth.

I am pleased to commend him today on the celebration of his 25th anniversary representing the Georgia Association of REALTORS.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROFIT OVER HEALTH

Mr. BROWN of Ohio. Mr. President, yesterday across this country, we celebrated Mother's Day, marking the contribution of mothers across our country. But 2 months ago, the health of tens of thousands of expectant mothers and their unborn children was threatened by a drug company putting profit over public health. Two months ago, there was justified public outrage that the cost of a drug hormone, progesterone, to prevent premature births went from approximately \$10 a dose—20 doses are needed through the course of a pregnancy—to \$1,500 per dose. The entire course of the 20-week treatment, therefore, was about \$200 three months ago. Two months ago, it went to \$30,000—\$200 to \$30,000.

This was once an affordable, common treatment to help women facing high-risk labor. I visited Toledo Children's Hospital, MetroHealth in Cleveland, and St. Elizabeth's Health Center in Youngstown to hear directly from patients and physicians and hospital executives about how the outrageous price increase affects them. Patients explained what it was like to overcome a previous miscarriage and rely on this progesterone to carry to full term today. Physicians and public health advocates explained the risk to women and children's health if the therapy were no longer affordable and accessible. Hospital administrators and State Medicaid directors worried what such an exorbitant increase would mean to already-stretched budgets.

Meanwhile, several colleagues and I began to ask questions about how and why the increase happened in the first place. We are concerned about how companies, private companies, abuse the FDA approval process or manipulate existing rules to shortchange consumers while those companies reap massive windfall profits. That is especially so because, in addition to affixing such a high cost to the drug, this company, KV Pharmaceuticals from St. Louis, sent a letter threatening a cease and desist order to compounding pharmacies—those pharmacies that actually make their own progesterone, in this case—a cease and desist order to prevent these phar-

macies from producing it, further solidifying KV Pharmaceutical's monopolization in the marketplace. All the while, pregnant women are left without the critical medicine their doctors prescribe for them, and either taxpayers foot the bill, insurance companies foot the bill, driving the price up, or women simply do without, increasing the number of miscarriages, increasing the number of low-birth-weight babies, increasing the cost to taxpayers, and increasing the heartache in mother after mother and father after father.

Fortunately, in an unusual response—unusual in the sense that this case was so dramatically outrageous and unbelievably greedy on the part of KV Pharmaceutical executives—the FDA did something it doesn't normally do: It asserted its authority and made clear it would not enforce the cease and desist order. What was KV's response after the public outrage, after the refusal to enforce the cease and desist order, therefore allowing the pharmacies to keep producing the progesterone? It reduced the price from \$1,500 a dose—remember, it was \$10 per dose as recently as 3 months ago. They take a shot every week for 20 weeks during the pregnancy. It was \$10 a dose, and they raised it to \$1,500. But do you know what they did after the FDA and a small number of Democratic Senator's pushed them, embarrassed them in public? They brought the price down to \$690 a dose. It went from \$10 when compounding pharmacies were doing it, to \$1,500 when they thought they could get away with it, to \$690—as if they thought they were doing America's women a favor. That means instead of it being \$30,000 for the whole cost of the pharmaceutical, the 20 doses, it would be about \$15,000. What a bargain. On top of that, they did what companies whose hands are caught in the cookie jar always do: They hired high-powered Washington, DC, lobbyists to fight for their rights, this exclusivity for this drug, trying to prohibit the critical work of compounding pharmacists.

I agree with drug companies; generally they need to recoup their investment. I want America's drug companies to do the boldest, most innovative, most progressive research in the world, and I want them to make a profit doing it so they can afford to do it and keep doing it. They should reflect the amount of R&D to bring drugs to market, the cost of their manufacture, the cost of their distribution, but in the case of this progesterone, the case of this pharmacy compound, taxpayers—in this case, through the National Institutes of Health—funded the initial research and continue to fund critical research on premature births. KV Pharmaceutical didn't do the research; they bought the exclusive rights to a monopoly by reimbursing another company—contracting with them—I believe that actually conducted the clinical trials and incurring the costs needed for FDA approval.

Something is very wrong when a company with limited R&D investments can grossly overprice a drug that in its absence virtually guarantees an increase in premature births.

Think of the greed involved here. They paid some number of millions of dollars to do a clinical trial, which was a good thing. They then brought the price from \$10 to \$1,500—times 20, again, with the number of doses people need in their treatment. With an initial investment of less than \$200 million, the first year they would have reaped over \$3 billion in revenue. Those are the kinds of numbers they were operating on, as if that is fair.

When a company used taxpayer-funded research to produce a drug so important that it reduces infant mortality and birth defects, that company should also take on the responsibility for pricing it in a reasonable manner. But prices should never be inflated, particularly on a public health drug where this company did not do the basic foundational research; all it did was pay for clinical trials that did not prove much more than we already knew. A company should never be allowed to inflate prices of a public health drug to reap these kinds of massive profits, nor should the FDA approval process ever be manipulated to achieve that same end, which it was.

While balancing the benefits of corporate profit—and I understand the balance, and I want the companies to continue to invest and move ahead—while it can be challenging balancing corporate earnings and societal benefits, we can't lose sight of our responsibility to make innovative medicines available and accessible to as many people as possible.

I would like to close with a story about why all this matters. Not too long ago—last month, I guess it was, early April—I was in Port Columbus International Airport about to fly to Washington when Karen Turano, whom I never met before, walked up to me to share her story. She has since e-mailed after our discussion where she talked about this drug, and she sent me this letter:

I met you at the Columbus airport with my husband Thad and our 17-month-old son Ryker. Again, I just wanted to say thank you for the work you are doing to make the progesterone shots affordable again.

Our first son, Tyler, was born August 18, 2008 and passed away the next day, August 19, 2008. I prematurely went into labor at 24 weeks and had an emergency C-section. Tyler was born at 9:59, weighing 1 pound 10 ounces.

Thad went to be with [my son] since I was recovering from surgery. He called me early the next morning and told me the worst news a new mother could hear: There was nothing more that could be done and that Tyler would pass away. My mother-in-law took me to see and hold Tyler for the first and last time in his precious life. It was devastating.

Thad and I have since worked with public health advocates to raise awareness on ways to prevent premature births—while following doctor's orders to wait 6 months before we tried again.

After I became pregnant with Ryker, I was monitored closely and started the progesterone shots at 16 weeks which continued through 36 weeks.

She had these shots through 20 consecutive treatments, once a week for 20 weeks.

I am convinced that these shots allowed me to carry the pregnancy to term.

Interrupting the letter for a moment, understand that when a doctor sees someone like Karen who has had a pregnancy like she had where a baby was born that prematurely, that doctor understands that a progesterone like this progesterone we are talking about can make a huge difference in her carrying her baby to full term.

Ryker was born at 38 weeks on October 30, 2009, my Halloween baby. My husband is a Columbus firefighter and I am an attorney practicing in workers' compensation. We look forward to more children in the near future, but the cost of this shot concerns us greatly. We have experienced the horrible pain of losing a child. No mother or father should have to go through this pain.

She writes, signed:

Sincerely, Karen, Thad, Ryker and Tyler Turano.

Today is Karen's birthday, coincidentally. She celebrates with her son Ryker and husband Thad and other family and friends—and she does with Tyler in her memory. I thank Karen for sharing her story and the patients in Toledo, Cleveland, Youngstown, and across our Nation and State who have spoken about this, who deserve the affordable and accessible treatment they need. I am optimistic we can continue to find ways to ensure that the majority of women in this country will still have access to affordable versions of this critical lifesaving injection. It should not take public outrage, it should not take congressional action, it should not take the FDA altering a policy it normally doesn't alter for a company to do the right thing.

Mr. President, as you know, with the unemployment in your State and the unemployment in my State and the problems we have as a nation on so many levels, this is particularly outrageous because this progesterone is a public health pharmacy compound that has worked and meant many more women will have safe births with growing, healthy children, contrasted with, if they do not have the opportunity to get this progesterone at a reasonable rate, at a reasonable price, we know what happens then. But rest assured, we will keep up the outrage, and we will continue to move through Congress, if that is what it takes, to get progesterone at an affordable price to America's women.

It is an outrage what KV Pharmaceuticals did. I applaud the FDA for changing its policy to make it more accessible.

I ask KV Pharmaceuticals to again come to the table. Instead of lobbying Congress to get their way and make a huge amount of money on a relatively small investment, I ask them to come

to the table and work with us so we can make this very important pharmacy compound accessible to all American women whose doctors prescribe it to them.

I yield the floor.

## ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER (Mr. MERKLEY). Under the previous order, the Senate stands adjourned until 10 a.m. tomorrow.

Whereupon, the Senate, at 6:58 p.m., adjourned until Tuesday, May 10, 2011, at 10 a.m.

## NOMINATIONS

Executive nominations received by the Senate:

### DEPARTMENT OF DEFENSE

BARBARA K. MCQUISTON, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE. (NEW POSITION)

### DEPARTMENT OF STATE

MICHAEL H. CORBIN, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE UNITED ARAB EMIRATES.

JEFFREY DELAURENTIS, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA FOR SPECIAL POLITICAL AFFAIRS IN THE UNITED NATIONS, WITH THE RANK OF AMBASSADOR.

JEFFREY DELAURENTIS, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS, DURING HIS TENURE OF SERVICE AS ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA FOR SPECIAL POLITICAL AFFAIRS IN THE UNITED NATIONS.

JEANINE E. JACKSON, OF WYOMING, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MALAWI.

WILLIAM H. MOSER, OF NORTH CAROLINA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MOLDOVA.

MATTHEW H. TUELLER, OF UTAH, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE STATE OF KUWAIT.

### HARRY S TRUMAN SCHOLARSHIP FOUNDATION

LAURA A. CORDERO, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 15, 2015. VICE JUANITA ALICIA VASQUEZ-GARDNER, TERM EXPIRED.

### THE JUDICIARY

STEPHEN A. HIGGINSON, OF LOUISIANA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT. VICE JACQUES L. WIENER, JR., RETIRED.

### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

#### To be rear admiral

REAR ADM. (LH) WILLIAM E. LEIGHER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

#### To be rear admiral

REAR ADM. (LH) DOUGLAS J. VENLET

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

#### To be rear admiral

REAR ADM. (LH) DAVID C. JOHNSON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

#### To be rear admiral

REAR ADM. (LH) DONALD E. GADDIS